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**TESTIMONY OF DANA BEST, MD, MPH, FAAP  
ON BEHALF OF THE AMERICAN ACADEMY OF PEDIATRICS**

**ENERGY AND COMMERCE SUBCOMMITTEE ON  
COMMERCE, TRADE, AND CONSUMER PROTECTION**

**“H.R. 4040, the Consumer Product Safety Modernization Act”**

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Good morning. Thank you for the opportunity to testify today before the Energy and Commerce Subcommittee on Commerce, Trade and Consumer Protection on H.R. 4040, the Consumer Product Safety Modernization Act. My name is Dana Best, MD, MPH, FAAP, and I am proud to represent the American Academy of Pediatrics (AAP), a non-profit professional organization of 60,000 primary care pediatricians, pediatric medical sub-specialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults. I am an Assistant Professor of Pediatrics at the George Washington University School of Medicine and an attending physician at Children's National Medical Center in Washington, D.C. I also serve on the AAP's Committee on Environmental Health, which is the primary body within the AAP that handles lead issues.

On September 20, I had the privilege of testifying before this subcommittee to present the AAP's recommendations regarding the lead content of toys and other children's products. Based upon the overwhelming scientific evidence of the serious danger that lead poses to children and the lack of a compelling need to include lead in children's products, the AAP recommended banning lead above trace amounts in children's products. The AAP advised the subcommittee to define a trace amount as no more than 40 parts per million. The AAP further recommended that a children's product be defined as one used by or with children under the age of 12 years in order to provide a standard that protects the most children possible throughout periods of rapid brain development.

H.R. 4040 represents an important step toward reducing children's exposure to lead in consumer products. First and foremost, it establishes uniform federal standards for lead content where none have existed. Current regulations permit most products to contain unlimited amounts of lead in any component other than paint. The proposed legislation will ensure that children's products must be tested and conform to limits on lead content.

The legislation reduces the allowable lead content of paint from the current level of 600 parts per million to 90 parts per million. As members of the subcommittee are undoubtedly aware, millions of toys and children's products have been recalled this year due to violations of the current lead standard of 600 parts per million. That standard, established in 1978 and based on an outdated understanding of the harms of lead poisoning, should be lowered significantly. H.R. 4040 sets a standard of lead in paint that is approximately one-seventh of the current allowable level. This step will greatly enhance the safety of products and homes.

H.R. 4040 allows manufacturers to choose between satisfying one of two standards for lead content in children's products. Manufacturers may choose to limit total lead content to a level that is initially set at 600 parts per million and is reduced to 250 parts per million after two years, then to 100 parts per million another two years later.

Alternatively, manufacturers may choose to limit soluble lead content to 90 parts per million. The standards of 90 and 100 parts per million are significant goals which, if met, will measurably reduce exposure to lead in children's products.

The Academy commends the bill's authors for establishing a single standard for lead in all children's products, rather than attempting to establish different classes of products with varying standards. It is critically important that all children's products be held to the same aggressive standards to protect children's health and assure parents that all children's products are safe.

The AAP further appreciates the fact that this legislation requires lead testing for products designed or intended for use by or with children up to the age of 12 years. Children's brains develop rapidly throughout childhood, and significant damage can occur from lead exposure at any point during this time. This provision represents a vital protection for child health.

The AAP congratulates the bill's sponsors on making significant strides toward improving the safety of children's products. In that cooperative and constructive spirit, the AAP would like to recommend five changes that would further strengthen this proposal:

1. The standard for lead exposure can and should be further reduced to AAP's recommendation of 40 parts per million in all parts of children's products. We can reduce or prevent damage to children's brains by lowering the lead standard to AAP's recommended level.
2. H.R. 4040 should define a standard test for "soluble" lead. The results of lead tests on products can vary considerably depending upon the methodology used to assess solubility. Further, the relationship of solubility to bioavailability and absorption will vary by method used to determine solubility. In order to ensure that this is a meaningful standard that can be enforced consistently, the Consumer Product Safety Commission should be directed to develop a rigorous test protocol with appropriate opportunities for public comment. In addition, the lead standard

that drops from 600 to 100 parts per million should state explicitly that it refers to total lead.

3. Some of the timetables in H.R. 4040 should be accelerated. While the standard limiting lead in children's products to 100 parts per million is laudable, it does not take effect until four years after enactment. The standard should go into effect earlier, preferably within no more than two years. Additionally, no timetable is specified for the Consumer Product Safety Commission to engage in the necessary rulemaking to establish the standard of 90 parts per million soluble lead. The CPSC should be instructed to engage in this rulemaking on a set timeframe, such as within six months to one year. In the meantime, the alternative standard for total lead should apply to all children's products.
4. Given that there is no compelling reason to include lead in children's products, lead content should be banned regardless of accessibility. If an accessibility standard is included, it should state explicitly that paint, coating or electroplating do not render lead inaccessible. The Commission should establish parameters for this exception by rulemaking and review them periodically, especially as lead-free alternatives become available.
5. Children's products should be defined to cover those designed or intended for use of children up to age 12 years not only with regard to lead testing, but related to other CPSC standards as well. The bill's limitation of other standards to products designed or intended for children under the age of 6 years fails to protect children age 6 to 12 years from hazards such as choking, sharp edges, amputation risk, caustic chemicals, and electrical shock. In addition, the legislation should not qualify this definition by requiring that it apply to products designed "primarily" for children of a certain age. The word "primarily" should be deleted from the bill.

In conclusion, the American Academy of Pediatrics praises H.R. 4040, the Consumer Product Safety Modernization Act, as an important advance in protecting our nation's children from the pernicious threat to health and development posed by lead. We look forward to continuing our dialogue and our work together toward our mutual goal of improving the health and well-being of all children.